

December 5, 2019

Mr. Stephen Celano
Ecotone Inc.
129 Industry Lane
Forest Hill, MD 21050

RE: Carroll Branch at Burchell Property-Stream Restoration
Forest Buffer Variance
Tracking # 03-19-3093

Dear Mr. Celano:

This Department received a request for a variance from the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains (i.e. Forest Buffer Law) on October 28, 2019. The request proposes to temporarily impact approximately 16 acres of riparian buffer area and 5,000 linear feet of Carroll Branch and two of its tributaries in order to restore 4,839 linear feet of this Use III stream system. This restoration would include establishment of 8.2 acres of wetted floodplain and planting riparian buffer adjacent to the restored streams, which are presently degraded and flow through heavily grazed cattle pasture with little functioning buffer.

This Department reviewed your request and has considered that the stream restoration is being done voluntarily and funded by a DNR Chesapeake and Atlantic Coastal Bays Grant. We have determined that a practical difficulty exists given that the stream restoration is not possible without stream and Forest Buffer impacts. Moreover, we recognize that requiring the full Forest Buffer Easement required by Section 33-3-111 of the Baltimore County Code would impact areas in which the landowner wishes to continue agricultural activities.

We have also determined that overall impacts to water quality will be minimized in the long term, as the proposed impacts are temporary and serve to provide a stable stream system. However, although the stream restoration would significantly improve water quality and habitat value of the stream system, the application states that no Forest Buffer Easement or similar protective perpetual easement would be recorded. Consequently, additional mitigative measures to adequately minimize the potential for impacts to water quality and aquatic resources as a result of this proposal will be necessary to meet this criterion.

Based on the findings above, we will grant this request in accordance with Section 33-3-106 (1) of the Baltimore County Code, with the following conditions:

1. The Forest Buffer shall be a minimum of 25 feet on each side of all restored stream channels or outer wetland boundary, whichever is greater. No further encroachment by agricultural or other land uses toward the westernmost tributary excluded from the subject restoration plan shall occur. The existing wooded buffer shall remain on that stream unless and until it is restored.
2. Areas of Forest Buffer adjacent to livestock pastures shall be permanently fenced off to prevent disturbance by the livestock.
3. The reduced Forest Buffer shall be planted with native deciduous species of trees in accordance with an EPS-approved Forest Buffer Protection Plan (FBPP). The plan included with the variance request package proposes no tree stock larger than 2 feet high. At least 50% of the buffer planting must include container-grown tree stock at least 5-6 feet high at 200 stems per acre and adequately protected from deer.
4. The following note must appear on all plans submitted for this project:

“A variance was granted by the Baltimore County Department of Environmental Protection and Sustainability from the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains on December 5, 2019. The Forest Buffer shown hereon is reflective of this variance. Conditions were placed on this variance to reduce water quality impacts including riparian buffer planting onsite and protective fencing to exclude livestock.”
5. The construction drawings (i.e. grading/erosion and sediment control and stream restoration plans) shall include the aforementioned final FBPP detailing the implementation of these approval conditions. This plan set shall be submitted to EPS staff for review and approval and must reflect the conditions of this variance approval. Additionally, these plans must meet all Maryland Department of the Environment (MDE) and U.S. Army Corps of Engineers (ACOE) requirements. EPS cannot approve the grading and ESC plans for this project until the final FBPP is approved.
6. Prior to grading permit approval, an Environment Agreement shall be executed.
7. Documentation of MDE and ACOE authorization of the restoration must be provided to EPS prior to issuance of any Baltimore County permit.

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8. Any future development activity on this property will require full compliance with Sections 33-3-111 and 33-3-112 of the Forest Buffer Law unless otherwise exempted by EPS.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement below and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

DVL:ges

c. Mr. Edward Burchell, Property Owner

I/we agree to the above conditions to bring my/our property into compliance with Law for the Protection of Water Quality, Streams, Wetlands and Floodplains.

Property Owner's Signature

Date

Property Owner's Printed Name